

**ASSEMBLY BILL**

**No. 940**

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**Introduced by Committee on Judiciary (Feuer (Chair), Brownley,  
Evans, Jones, Krekorian, Lieu, and Monning)**

February 26, 2009

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An act to amend Section 1021.5 of the Code of Civil Procedure,  
relating to attorney's fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 940, as introduced, Committee on Judiciary. Civil litigation:  
attorney's fees: public interest.

Existing law allows a court, upon motion, to award attorney's fees  
to a successful party against one or more opposing parties in any action  
that has resulted in the enforcement of an important right affecting the  
public interest, if certain conditions are met.

This bill would make technical, nonsubstantive changes to these  
provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1021.5 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1021.5. Upon motion, a court may award ~~attorneys'~~ attorney's
- 4 fees to a successful party against one or more opposing parties in
- 5 any action ~~which~~ that has resulted in the enforcement of an
- 6 important right affecting the public interest if: (a) a significant
- 7 benefit, whether pecuniary or nonpecuniary, has been conferred

1 on the general public or a large class of persons, (b) the necessity  
2 and financial burden of private enforcement, or of enforcement by  
3 one public entity against another public entity, are such as to make  
4 the award appropriate, and (c) ~~such~~ *those* fees should not in the  
5 interest of justice be paid out of the recovery, if any. With respect  
6 to actions involving public entities, this section applies to  
7 allowances against, but not in favor of, public entities, and no claim  
8 shall be required to be filed ~~therefor~~, *in such an action*, unless one  
9 or more successful parties and one or more opposing parties are  
10 public entities, in which case no claim shall be required to be filed  
11 therefor under Part 3 (commencing with Section 900) of Division  
12 3.6 of Title 1 of the Government Code.

13 ~~Attorneys'~~

14 *Attorney's* fees awarded to a public entity pursuant to this section  
15 shall not be increased or decreased by a multiplier based upon  
16 extrinsic circumstances, as discussed in *Serrano v. Priest*, 20 Cal.  
17 3d 25, 49.